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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,816	07/02/2003	Fred O. Hartmann	G351.12-01	3853
<div>43662      7590      12/27/2007</div> <div>DUFAULT LAW FIRM, P.C. 920 LUMBER EXCHANGE BUILDING TEN SOUTH FIFTH STREET MINNEAPOLIS, MN 55402</div>				
			EXAMINER ADAMS, GREGORY W	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 12/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/612,816	Applicant(s) HARTMANN ET AL.	
	Examiner Gregory W. Adams	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6,7,9,11,13-20,22,23,25,27,28,30-32 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6,7,9,11,13-20,22,23,25,27,28,30-32 and 34-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites a "locked position" but since there is no structure associated with said position, e.g. a lock etc., than its unclear how one skilled in the art would know what a locked position is.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

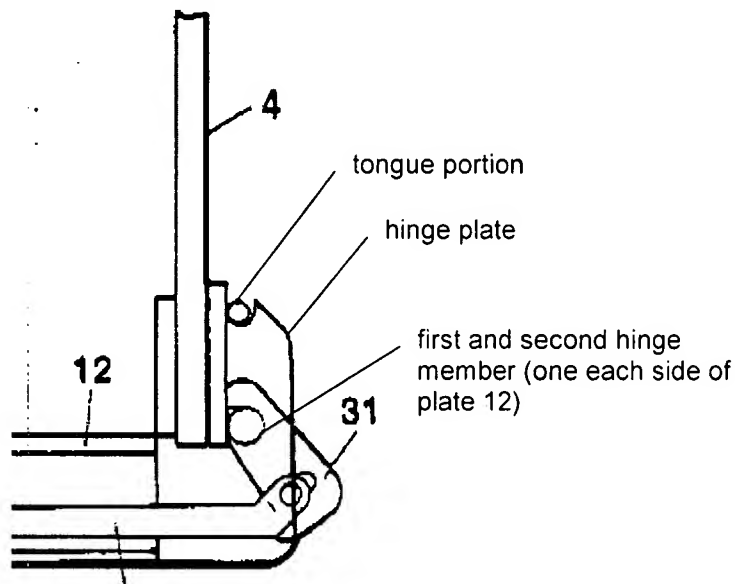
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7, 14, 17-20, 22, 27-28, 30, 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura (US 5,899,482) in view of Howe (US 1,582,045) (previously cited) and Buckley et al. (US 4,186,841) (previously cited).

With respect to claims 6-7, 14, 17-20, 22, 27-28, 30, 34-38, Kimura discloses a handtruck comprising-

- wheels 2 connected to a platform 1;
- locking plate 12;
- first and second spaced-apart hinge members (see FIG. 4 reproduced below).

- handle 4; and
- a tongue portion (see FIG. 4 reproduced below);



Kimura discloses vertically locked position (FIG. 5B), and does not disclose a support members, channel, parallel extending tongue portion, stops and handlebars.

Howe discloses handlebars 23, channel 17 underneath a platform 10 and stops 19 which allows handtrucks to utilize a handle having an operative position and an inoperative position substantially within the boundaries of the vehicle frame. Howe discloses that a handle allows the truck to be steered by the objects thereon themselves or when the handtruck is idle and being shipped from one place to another. C2/L11-26. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Kimura to include a channel and stops, as per the teachings of Howe, to improve steering and shipping.

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Buckley discloses support members 101-104, 114, a locking member (indicated generally as 109f) that extends parallel to a wall 109 and a locking plate 107 connected to a platform 106 such that the locking plate 107 is disposed between a wall 109 and a tongue portion 109f which aids positioning and locking of wall 109. C3/L27-35. Although Buckley discloses locking a wall to a platform, a wall in an upright position can just as easily position a platform. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lock of Kimura to include Buckley's lock for easier removal and locking of a handle.

Claims 9, 11, 16, 25 & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Howe, Buckley et al. and Jones et al. (US 4,209,183) (previously cited).

With respect to claims 9, 11, 16, 25 & 32, Kimura discloses wheels extending down from a platform, and does not disclose wheels disposed within guards that extend down from a pallet bottom. Jones et al. discloses wheels 19, 20 within guards 37, 38 that extend down from a pallet 12 bottom. Jones's discloses two fixed directional wheels 19. Jones et al. teaches that "pallets are well-known and are usually provided with wheels so as to be suitable for moving goods loaded on the base to and about, for example, supermarkets." C1/L21. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet of Kimura to include wheels disposed within guards that extend down from a pallet bottom, as per the teachings of Buckley et al., to move palletized goods about a supermarket.

Claims 13, 15, 23 & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Howe, Buckley et al. and Balolia (US 6,095,533) (previously cited)

With respect to claims 13, 15, 23 & 31, Kimura does not disclose a foot brake. Balolia discloses a platform 22 having foot brakes 28 such that a load, e.g. machinery, may be safely immobilized after moving from one work sight to the next. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Kimura to include a foot brake, as per the teachings of Balolia, improves safety of pallets.

#### ***Response to Arguments***

Applicant's arguments with respect to the respective claims have been considered but are moot in view of the new ground(s) of rejection:

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

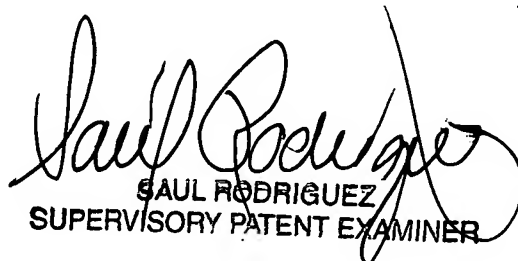
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA

*GWA*  
*12/17/07*

  
SAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER